

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH DAKOTA
WESTERN DIVISION**

STATE OF INDIANA, *et al.*,

PLAINTIFFS,

v.

ALEJANDRO MAYORKAS, in his official
capacity as Secretary of Homeland Security, *et
al.*;

DEFENDANTS.

CIVIL ACTION NO. 1:23-cv-00106-CRH

RESPONSE TO DEFENDANTS' NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiffs hereby respond to Defendants' Notice of Supplemental Authority (ECF 75) regarding two United States Supreme Court decisions related to Article III standing.

In *Food and Drug Administration v. Alliance for Hippocratic Medicine*, 602 U.S. 367 (2024), the Court held the plaintiffs lacked standing where they alleged "sincere legal, moral, ideological, and policy objections." *Id.* at 386. But the Plaintiffs in this matter have asserted more than moral or policy objections. Plaintiffs in this case have alleged specific, foreseeable, financial injuries based on the influx of additional aliens to the States. *See* ECF 61, pp. 8-9; ECF 1, ¶¶ 59-104. These injuries are based on past experiences where aliens within Plaintiffs' borders have required the States to incur additional, mandated expenses to provide them with health care, education, and other costs. This is different from a teacher suing over lax immigration policy causing an overcrowded classroom. *Cf.* Notice at 2 (citing *Alliance*, 602 U.S. at 382). A more apt analogy would be to look at it from the perspective of a teacher legally obligated to pay for each

additional students' tuition and educational expenses, as well as those students' housing expenses and healthcare expenses.

And in *Murthy v. Missouri*, 2024 WL 3165801 (June 26, 2024), the Supreme Court determined that the two plaintiff States there did not have standing to pursue claims that governmental entities were engaged in censorship of information on third-party platforms because they had not shown a "causal link" for their claims. *Id.* at *10. However, the Court also noted that past injuries are relevant "for their predictive value." *Id.* at *8. In this case, the Plaintiff States have shown that costs are incurred by aliens that move within their borders, *see* ECF 61, pp. 8-9; ECF 1, ¶¶ 59-104, and that the number of aliens that have entered the United States increased after the promulgation of the Rule at issue in this matter, *see* ECF 61, pp. 10-11. Consequently, unlike in *Murthy*, the States have shown a "causal link" between their increased financial costs and the exceptions contained in the Circumvention of Lawful Pathways rule.

Respectfully Submitted,

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